

REPUBLIC OF KENYA

KITALE HIGH COURT

SUCCESSION CAUSE NO.155 OF 2011

IN THE MATTER OF THE ESTATES OF THE LATE PKUMON KAMOLO AND

WILSON MAGAL KINYANG(DECEASED)

CHEMAKWANY CHEPKERKER NGORIANGOLE.....APPLICANT

VERSES

WILLIAM PKEMOI KAMOLO.....RESPONDENT

DIRECTIONS

1. Vide her application dated 7th October 2019 the applicant prayed that the grant issued on the 16th day of May, 2019 be confirmed in the manner in which she had proposed. The respondent vide his replying affidavit dated 5th November ,2019 has vehemently opposed the same claiming that the proposed mode of distribution was incorrect as the parties therein did not have any right over the two deceased person's estate.
2. The court has perused the proceedings herein as well as the submissions on record by the counsels. It is admitted that the relationships between the parties is not as direct as such and that it requires adduction of oral evidence.
3. This position was appreciated by my brother **Karanja J** in his long ruling dated 9th October, 2012 in which relying on the affidavits on record set aside the respondent as the only beneficiary and thus opened the door for the rest of the beneficiaries. In his conclusion he ruled that since the area where the deceased persons ailed was West Pokot it was exempted from the provisions of the Succession Act especially Section 33 thereof.
4. Although the issue of the Administrators was sorted out the sticking issue is how the estate ought to be distributed. This in my view needs oral evidence and in particular the customs as practiced by the Pokot community.
5. In the premises it is ordered that the application dated 7th October, 2019 be disposed by way of oral evidence. It is noted that there is now a high court in Kapenguria and so as to save on the parties' costs and time as well as the distance this matter is hereby transferred to Kapenguria high court for determination.
6. Costs shall be in the cause.

Dated, signed and delivered via Zoom at Kitale on this 5th day of May, 2020.

H. K. CHEMITEI

JUDGE

5/5/2020